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Attorneys for Plaintiff Comerica Bank

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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COMERICA BANK,
Plaintiff,

v.

DENNIS SCIALPI,
Defendant.

**AFFIDAVIT IN SUPPORT
OF MOTION FOR DEFAULT
JUDGMENT**

12-cv-00897-ERK-SMG

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STATE OF NEW YORK)
)ss.
COUNTY OF NEW YORK)

Richard P. Norton, being duly sworn, deposes and says:

1. I am an attorney with the law firm of Hunton & Williams LLP, with offices, among other places, at 200 Park Avenue, New York, New York. I make this affidavit (the "Affidavit") in support of the attached Motion for Entry of Default Judgment (the "Motion") and pursuant to Rule 55.2(a) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York (the "Local Rules"). Capitalized terms not defined herein have the meanings ascribed to them in the Memorandum of Law in Support of Motion.

2. I caused the Complaint (the "Complaint") in this matter to be filed with the Court on February 23, 2012. A true and correct copy of the Complaint is attached hereto as Exhibit A.

3. The Clerk of the Court issued a summons on February 23, 2012 (the “Summons”).

4. The Defendant was properly served with a copy of the Summons and Complaint by personal service on February 24, 2012. A Certificate of Service certifying the date and manner of service was filed with the Court on February 28, 2012.

5. The Defendant failed to file an answer, motion, or other responsive pleading within 21 days from the date of service of the Summons, as required by Federal Rule 12(a). This failure to plead or otherwise defend within the 21 day time limit constituted a default pursuant to Federal Rule 55(a).

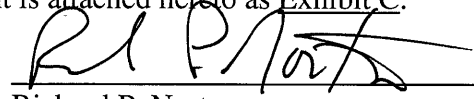
6. The Clerk entered a default against the Defendant on April 6, 2012. A copy of the Clerk’s Certificate of Default with respect to the Defendant is attached hereto as Exhibit B.

7. The Defendant is not an infant or incompetent. Defendant is not presently in the military service of the United States.

8. The principal amount owed by the Defendant as guarantor of certain indebtedness owed to Comerica by various corporate entities (the “Corporate Borrowers”) was \$10,694,049.19 as of the date the Corporate Borrowers filed bankruptcy petitions on July 6, 2011. As a result of the sale of certain assets in those bankruptcy cases in August 2011, Comerica received gross proceeds of \$6,770,394.00. The proceeds from the bankruptcy sale were applied to principal, interest, late charges and expenses pursuant to the agreements with the Corporate Borrowers. The application of the gross proceeds reduced the principal amount owed by the Defendant under the guaranty at issue, as of April 27, 2012, to \$4,671,301.38. Accrued and unpaid interest under the guaranty through April 27, 2012 is \$303,678.02, and said interest continues to accrue at the rate of \$1,245.91 per day. As of April 27, 2012, the total amount of principal and interest due

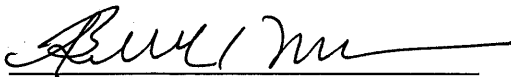
Comerica under the guaranty is \$4,974,979.40. Comerica is not seeking attorneys' fees or costs as part of this Motion.

9. A proposed form of default judgment is attached hereto as Exhibit C.



Richard P. Norton

Sworn to and subscribed before me
this 3rd day of May, 2012



Notary Public

BRADFORD C. MULDER
Notary Public, State of New York
No. 02MU5067057
Qualified in Kings County
Certificate Filed in New York County
Commission Expires Oct. 7, 20 14